

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/22/07 has been entered.

Response to Arguments

2. Applicant's arguments with respect to claims 1-5 and 7 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

4. Claim 5 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. Applicant's specification states that the recording medium for the computer program "may be a transmission medium". Specification, page 25, line 3. It is unclear whether Applicant's intent is to encompass non-statutory media such as transmission media and signals. Transmission media and signals are not patentable subject matter. *In re Nuijten*. To overcome this rejection, Applicant should submit a clear disavowal that Applicant is not intending to claim media other than physical media such as hard disks, floppy disks, optical disks, etc.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent

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granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-5 and 7 are rejected under 35 U.S.C. 102(e) as being anticipated by Norizuki et al. (U.S. 6,154,859).

7. In regard to claims 1, 4 and 5, Norizuki disclosed:

a reply unit configured to transmit reply information as a reply to a request issued by the external communication device, and to store the reply information in a memory; column 11, line 44 – column 12, line 42

a connection monitoring unit configured to monitor a connection between the data communication device and the external communication device, the connection for transmitting the reply information from the reply unit; and column 11, lines 47-56

a transmission unit configured to transmit the stored reply information corresponding to the connection to said external communication device based on a result of the monitoring by said connection monitoring unit only if the transmission unit determines that the connection has been abnormally cut off. Column 12, lines 12-38

8. In regard to claim 2, Norizuki disclosed:

a reply information destruction unit which destroys the reply information stored in said memory if the reply information destruction unit determines that the connection is normally released based on the result of the monitoring by said connection monitoring unit. If the information is not sent as a result of the abnormality, new monitoring information will be saved to update the status of the connection. Since the new monitoring information is saved, the old information is destroyed.

9. In regard to claim 3, Norizuki disclosed:

the reply information includes at least identification information for identifying the request and reply data, wherein the external communication device retrieves the reply information corresponding to the abnormally cutoff connection from among a plurality of the reply information

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stored in a memory while using the identification information and makes a transaction match based on the reply data, the transaction including communication processes relating to at least the request and the reply information. Column 12, lines 7-35

10. In regard to claim 7, Norizuki disclosed:

the reply unit is configured to store the reply information associated with an IP address and a port number corresponding to the connection in said memory, and the transmission unit retrieves the reply information corresponding to the abnormally cutoff connection from the reply information stored in said memory while using the IP address and the port number corresponding to the abnormally cutoff connection as a key. Column 12, lines 7-35. Keeping track of where the abnormality occurs in the network implies the use of both an IP address and a port number for the connection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeffrey R. Swearingen whose telephone number is (571)272-3921. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Jeffrey R. Swearingen
Examiner
Art Unit 2145

JRS

/Jason D Cardone/
Supervisory Patent Examiner, Art Unit 2145